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May 17, 2012

BY CM/ECF:

The Honorable Gregory M. Sleet
United States District Court
844 King Street
Wilmington, DE 19801

Re: MOSAID Technologies, Inc. v. Adobe Systems, Inc., et al.
C.A.No.: 11-698-GMS

Dear Judge Sleet:

We represent Plaintiff MOSAID in the above-titled action and I am writing to advise the Court of Plaintiff's settlement and dismissal of four (4) of the six (6) defendants in this case, which moots at least one (1) pending motion on which the Court now does not need to rule.

Specifically, as a result of the dismissal of former Defendant Juniper Networks, Inc., ("Juniper") (D.I. 92-93), Plaintiff contends that the pending motion by Juniper to transfer venue in this case (D.I. 64) is now moot and may be denied as such. Remaining Defendant VMWare, Inc. ("VMWare") concurs with this contention. Remaining Defendant Alcatel-Lucent USA, Inc. ("Alcatel-Lucent") takes no position as to this contention.

Further, Plaintiff and remaining Defendant VMWare contend that at least one of the two remaining defendants is pursuing all other pending motions and as such those motions are ripe to be ruled on. Remaining Defendant Alcatel-Lucent again takes no position as to this contention.

This letter will also respond to remaining defendant VMWare's recent letter to you regarding the Federal Circuit's recent decision in *In re EMC Corp.* (D.I. 94). That decision involved eighteen (18) defendants. After the settlement and dismissals, this case now only involves two (2) defendants.



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Further, the Federal Circuit highlights the fact that a district court may exercise its “considerable discretion” to consolidate cases for discovery and trial under Rule 42, even when joinder is not permitted under Rule 20. *In re EMC Corp.*, Misc. Dkt. No. 100, slip op. at 16. The Court explains that unlike Rule 20, the consolidation provisions of Rule 42 only require that venue be proper and that there be a common question of law or fact. *Id.* Notably, in the instant action the remaining Defendants have not contested the propriety of venue nor have they contested that there are common questions of law or fact.

We appreciate your consideration of these matters. Thank you.

Sincerely,

/s/ Stephen B. Brauerman

Stephen B. Brauerman

Cc: Counsel for VMWare
Counsel for Alcatel-Lucent

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